

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY **OFFICIAL FILE**

Petition for Approval of a Decommissioning
Expense Adjustment Rider on Expedited Edison Exhibit No. 5
Schedule

Witness _____

Date 8/29/60

Reporter ST

DIRECT TESTIMONY OF CALVIN MANSHIO

I. Qualifications

Q. Please state your name and business address.

A. Calvin Manshio, Manshio & Wallace, 4753 North Broadway Ave., Suite 732,
Chicago, Illinois 60640.

Q. Please describe your education and professional background.

A. I am a partner in the law firm of Manshio and Wallace and have taught administrative law as a member of the adjunct faculty at John Marshall Law School in Chicago. I graduated from the University of Illinois in Chicago in 1971 with a Bachelor of Arts degree in History. I received my law degree from John Marshall Law School in 1979. I served as a member of the Illinois Commerce Commission from 1985 - 1992. During my tenure on the Commission, I was involved in rendering decisions involving electric utilities and served on the Commission's Electric Policy Committee. I authored more than one hundred concurring or dissenting opinions to Commission decisions, and approximately forty of these dealt with aspects of electric utility service. In addition to making presentations on the electric utility industry to industry

1 investors, trade organizations, consumers and regulatory groups, I also
2 participated in discussions with them on structural changes occurring in
3 regulated industries.

4
5 Q. Have you written on industry restructuring?

6 A. Yes. I have written on how changes in industries regulated by public utility
7 commissions require changes in regulation in a number of articles, including:
8 "The Realpolitik of Regulation," Public Utility Fortnightly, May 1, 1992; "Help or
9 Hindrance? Regulators in a Changing World, Public Utilities Fortnightly,
10 January 15, 1993, and "Yesterday's Gone: The Risk Associated with Tomorrow's
11 Electric Utility Infrastructure," Management Quarterly, Spring, 1993.

12
13 Q. Have you been involved in any restructuring issues since leaving the
14 Commission?

15 A. Yes. For example, I have worked with a local exchange company on their public
16 policy restructuring and assisted cable television providers in industry
17 restructuring following passage of the Cable Television Consumer Protection
18 and Competition Act of 1992. In addition, I have been active in
19 telecommunications industry restructuring issues including changes in
20 telephone numbering, access to an incumbent utility's infrastructure for resale,
21 and corporate mergers. I have also worked with cable television providers
22 before municipalities and other groups to explain structural changes in the
23 delivery of cable television and telecommunication services.

24 Q. Have you previously testified before the Illinois Commerce Commission?

1 A. Yes, in the Commission's proceedings pursuant to Section 16-111(g) of the
2 Public Utilities Act concerning Commonwealth Edison Company's ("ComEd's")
3 Sale of Fossil Fuel Fired Generating Plants (Docket 99-0282). I provided
4 testimony on public policy changes underlying the 1997 Amendments to the
5 Public Utilities Act.

6
7 **II. Purpose**

8 Q. What is the purpose of your testimony?

9 A. The purpose of this testimony is to discuss ComEd's Petition in this proceeding
10 in the context of the Commission's development of its competitive electric
11 service policies.

12
13 **III. Summary**

14 Q. Please summarize your testimony.

15 A. The Commission should approve ComEd's Revised Rider 31 proposal for three
16 reasons. First, it provides a rare opportunity to establish an electric service
17 policy that will promote competition for electric generation service in Illinois.
18 Second, approval of the petition results in the shifting of costs for
19 decommissioning nuclear stations from ComEd's customers to what will be the
20 new Genco owner of the nuclear generating capacity. Third, the proposal
21 eliminates the need for annual regulatory proceedings, granting customers the
22 benefit of not paying about \$1 billion in decommissioning costs, and eliminating
23 associated cost escalation risks for customers in favor of fixing the collection
24 rate for six years and terminating collections thereafter.

1 **IV. An Opportunity to Establish a Competitive Market in Electric Generation**

2 Q. Why does ComEd's petition present a rare opportunity to establish a
3 competitive market in electric generation?

4 A. Based on my experience as a former regulator, the opportunity to change the
5 structure of a regulated industry is rare and depends upon two things:
6 authority and exercise of judgment. Under the 1997 Amendments to the Public
7 Utilities Act, electric utilities are provided the opportunity to separate electric
8 service in Illinois into generating service and transmission and distribution
9 service. The Commission has the authority to implement rules and grant
10 petitions to promote this restructuring. The Commission cannot regulate
11 competitive opportunity, but must take advantage of those opportunities
12 provided by the voluntary actions of utilities.

13
14 In another proceeding pending at this time, ComEd has notified the
15 Commission of its intention to transfer its nuclear stations, along with certain
16 other assets, into a separate Generating Company ("Genco"). If the transfer is
17 approved by the Commission, ComEd will become a transmission and
18 distribution company separate from the electric generating market. The present
19 docket is a logical extension of the transfer proceeding in the transition toward
20 creating a competitive market for generating service. If approved, the proposal
21 in the present proceeding would ultimately shift decommissioning costs
22 associated with generating capacity from ComEd to the Genco. This Petition is
23 an opportunity for the Commission to exercise its judgment, and: (1) create a
24 competitive market for generating capacity in ComEd's service territory, and (2)
25 provide certainty to ratepayers by capping the recovery of decommissioning

1 expenses to a fixed amount for six years and, thereafter, eliminate any recovery
2 through Rider 31.

3 **V. Shifting the Risk of Decommissioning Costs**

4 Q. How does the proposal shift the risk of decommissioning costs from consumers?

5 A. Currently, ComEd applies for the recovery of decommissioning costs through its
6 annual Rider 31 filing. The Commission then decides what is "just and
7 reasonable" and orders recovery from ComEd's customers. Each annual
8 petition creates uncertainty for ComEd and its customers on how much will be
9 recovered through Rider 31. This Petition can provide certainty for both ComEd
10 and its customers by limiting cost recovery to a fixed amount for the next six
11 years, and thereafter, shifting the risk of further decommissioning cost recovery
12 to the owner of the nuclear stations.

13
14 Q. Is the risk of cost recovery really shifted if ComEd continues to buy nuclear
15 power after six years?

16 A. Yes. After the six-year period following the transfer of the nuclear stations,
17 ComEd will have a choice in purchasing its generating mix. These purchases
18 will be at market prices which will be subject to FERC approval. Under the
19 proposal ComEd's responsibility and consumers' obligations to pay
20 decommissioning costs are fixed for six years. The Genco, as NRC licensee, will
21 be the entity under NRC regulations responsible for decommissioning funding
22 and performing decommissioning work. Any changes in NRC decommissioning
23 requirements, increases in low-level radioactive waste storage costs and the like
24 would have no impact on decommissioning costs paid by consumers for the
25 next six years, or thereafter. After six years, decommissioning costs would

1 remain the responsibility of the owner of the nuclear stations and consumers
2 would not have to make any further contribution toward decommissioning of
3 the nuclear plants.

4
5 Q. Wouldn't it be a better bargain to have an immediate elimination of
6 decommissioning cost recovery by ComEd rather than continued payment for
7 six more years?

8 A. No. There is a need to recover decommissioning costs for the nuclear stations,
9 and ComEd is entitled to continue collecting decommissioning costs from its
10 customers. It also has the duty to its shareholders to exercise business
11 judgment in minimizing its own risk in a competitive environment. The six year
12 cost recovery period must be weighed against continued recovery of
13 decommissioning costs from customers. When this is done, ComEd's proposal
14 is a reasonable resolution to decommissioning cost recovery.

15
16 **VI. Elimination of Rider 31 Litigation**

17 Q. How would eliminating Rider 31 litigation proceedings benefit customers?

18 A. Eliminating Rider 31 proceedings would result in several benefits to customers.
19 First, by granting the Petition in this proceeding, the Commission would
20 eliminate the risk of customers being required to pay increased amounts for
21 decommissioning costs in future Rider 31 proceedings due to changed
22 circumstances, such as increases in decommissioning cost estimates and NRC
23 regulations. Second, by granting the Petition and eliminating Rider 31
24 litigation, the Commission will permit customers to receive the benefit of
25 avoiding payment of \$1 billion in decommissioning collections pursuant to

1 ComEd's proposal. Finally, granting the Petition will end the annual cycle of
2 preparing and litigating Rider 31 cases before the Commission, which will
3 permit redeployment of regulatory resources and parties' resources to other
4 business.

5 **VII. Conclusion**

6 Q. Does this conclude your testimony?

7 A. Yes.